

**[Waiver 1996-9]**

August 21, 1996

William Clark, Contract Manager  
Department of Health and Human Services  
401 Fleet Street, 3rd Floor  
Rockville, MD 20850

Re: Request for Ethics Opinion

Dear Mr. Clark:

The Montgomery County Ethics Commission has considered your request for a waiver. In your memorandum, dated June 6, 1996, you indicate that your wife, Rosemary Clark, would like to return to the Department of Health and Human Services in a part-time contractual capacity. Your wife previously worked for the Department as a County employee.

You are contract manager for the Department and recognize that there is a potential conflict of interest associated with your wife entering contracts with the Department. Several sections of the Ethics Code apply to this situation. For example, Section 19A-11 addresses the participation of public employees in matters affecting a relative's business. In addition, Section 19A-14(d) prohibits a public employee from hiring or advocating the advancement of a relative to a position that is under the jurisdiction or control of the public employee.

The Commission has decided to grant a waiver of the Ethics Code to permit your wife's employment with the Department. The waiver is based upon your commitment to ensure that the following will occur:

1. Staff on the contract management team will maintain the integrity of the procurement process to ensure that no one receives an unfair advantage.
2. You will recuse yourself from involvement in any initiative to which your wife may wish to respond.
3. You will not have any involvement whatsoever in any resulting contract that she may receive.
4. You will have no monitoring responsibilities or fiscal oversight for any contract resulting from a successful solicitation on her behalf.

Thus, conditions three and four will preclude you from supervising your wife. In addition, you must provide a copy of this letter to Mr. Charles Short and he must send a response to the Commission before your wife may engage in any employment with the Department. Therein, Mr. Short must provide assurances that the Department will comply with these conditions.

With these conditions in place, the Commission concludes that your wife may work for the Department. The Commission finds that the waiver requirements of Section 19A-8 have been satisfied. The best interests of the County would be served by allowing a former County employee to bid on County contracts. The conditions set forth in this letter virtually eliminate the potential harm of any conflict and prevent you or your wife from receiving any unfair advantage over other members of the public.

Thank you for consulting with the Commission. If you have any questions, please do not hesitate to contact us.

Very Truly Yours.

[signed]

Laurie Horvitz

Montgomery County Ethics Commission